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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/464,537	06/07/95	QUEEN	C

18M1/0221

TOWNSEND AND TOWNSEND KHOURIE AND CREW
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EXAMINER	
REESE	

ART UNIT	PAPER NUMBER
1806	8

DATE MAILED: 02/21/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/484,537	Applicant(s) Queen et al
	Examiner Julie E. Reeves, Ph.D.	Group Art Unit 1806

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *one* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *86-110* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims *86-110* are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Notice to Comply with Sequence Requirements

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

1. It is noted that claims 1-20 filed 7 Jun 1995 have been renumbered under rule 126 as claims 86-105, respectively. It is suggested that the dependent claim numbers be corrected accordingly.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 86-104 and 106-110, drawn to a humanized antibody and the method of making a humanized antibody, classified in class 530, subclass 387.3 and Class 435, subclass 172.3, for example.

II. Claim 105, drawn to a method of treating myeloid leukemia, classified in class 424, subclass 133.1.

3. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the antibody product of Invention I can be used for either immunotherapy as recited in Invention II or for the process of immunodetection or immunopurification. Thus Inventions I and II are patentably distinct.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and because of their recognized divergent subject matter restriction for examination purposes as indicated is proper.

5. A telephone call was made to William Smith on 7 February to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

COMPLIANCE WITH THE SEQUENCE REQUIREMENTS

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. 1.821 (a)1 and (a)(2). However this application fails to comply with the requirements of 37 C.F.R. 1.821-25 for the reasons set forth on

the attached Notice to Comply with Requirements for Patent Applications Containing Nucleotide And/or Amino Acid Sequence Disclosures.

APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES , 37 C.F.R. 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. 1.136. In no case may the applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned . Applicant is requested to return a copy of the attached Notice to Comply with the response.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie E. Reeves, Ph.D. whose telephone number is (703) 308-7553. Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0196.

Julie E. Reeves, Ph.D.

February 7, 1997

LILA FEISEE
SUPERVISORY PATENT EXAMINER
GROUP 1800

Application No. 08/484,537

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821 - 1.825 for the following reason(s):

☒ 1. This application clearly fails to comply with the requirements of 37 CFR 1.821 - 1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 CFR 1.821(c).

☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).

☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked-up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).

☐ 7.

Other: _____

Applicant must provide:

☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing"

☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification

☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d)

For questions regarding compliance with these requirements, please contact:

For Rules Interpretation, call (703) 308-1123
For CRF submission help, call (703) 308-4212
For PatentIn software help, call (703) 557-0400

Please return a copy of this notice with your response.